

NASCIMBENE  
Serial No. 10/049,810

Atty Dkt: 3573-13  
Art Unit: 2681

### **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

#### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Editorially amend the specification.
2. Cancel claims 1 – 6 without prejudice or disclaimer.
3. Add new claims 7 - 14.
4. Respectfully traverse all prior art rejections.

#### **B. PATENTABILITY OF THE CLAIMS**

The new claims, including new independent claim 7, highlights a feature readily apparent in the original disclosure: that the access terminal has a directive antenna. In this regard, see, e.g., page 2, lines 4 – 8 and the top of page 3 of the specification wherein it is specifically mentioned (in a case where the alternative radio node is in a second hub, e.g., hub different from the first hub) that the access terminal has either (1) two antennas which are directed to the two different hubs, or (2) a single antenna with electronically routed beams (e.g., steered beams). These clearly disclosed aspects of the access terminal are consistent with the fact, certainly known to the person skilled in the art, that access terminals having directive antenna(s) in point to multipoint systems are fixed access terminals, the fixed nature giving rise to the technical reason for needing directive antenna.

Claims 1-6 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent 5,724,346 to Kobayashi et al (see enumerated paragraph 2 of the Office Action). Applicant respectfully traverses the prior art rejections.

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Kobayashi refers to mobile or semi-mobile techniques and, specifically, to one of the several techniques for managing handover of a mobile user moving between cells. The applied prior art concerns mobile or semi-mobile terminals with omnidirectional antennas, not a system such as Applicant's having a fixed subscriber access terminal and equipped a highly directive antenna pointing towards the radio node. Consequently, the Office Action incorrectly concludes that Kobayashi shows an access terminal with two antennas or an antenna with electronically steered beams that can switch between separated radio nodes.

Applicant's pending claims are to a fixed system, where handover between cells does not occur and is not an issue or concern. As distinguished from handover, Applicant's access terminal switches between radio nodes, upon failure of the home radio node (its originally allocated radio node). Once the switching has occurred, the radio transmissions are facilitated by the access terminal having (as in cases wherein differing radio nodes are in differing hubs) either plural directed antennas or electronically routed beams.

Concerning dependent claim 8, Applicant's switching capability is within the access terminal. For Applicant, the radio node comprises a managing system to shut-off the faulty radio node, and to re-route and allocate its traffic to the host radio node. For this purpose, the radio nodes have the possibility to bear an additional traffic with the respective access terminal, so that they may take over the traffic provisionally allotted to them during faulty of an other radio node.

In view of the foregoing and other considerations, the Examiner has ample bases for withdrawing all rejections and for allowance of all pending claims. Accordingly, a formal indication of allowance is earnestly solicited.

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**C. MISCELLANEOUS**

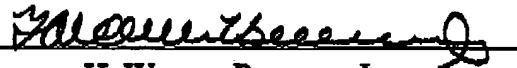
The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



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